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**THE CHILLICOTHE TELEPHONE COMPANY**

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November 24, 1993

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

William Caton, Acting Secretary  
Federal Communications Commission  
1919 M Street, NW  
Room 222  
Washington, DC 20554

Re: Implementation of Section 309(j) of the Communications  
Act concerning Competitive Bidding  
PP Docket No. 93-253

Dear Mr. Caton:

The Chillicothe Telephone Company (Chillicothe) is a local exchange carrier providing telephone services in Chillicothe, Ohio and smaller surrounding communities. In response to the comments filed by various parties in PP Docket No. 93-253, Chillicothe urges the Commission to adopt a definition of "rural telephone company" similar to the one advocated by US Intelco Networks and the Office of Advocacy of the United States Small Business Administration ("Office of Advocacy"). Chillicothe also urges the Commission to adopt the proposed definition of "small business" suggested by the Office of Advocacy. The FCC should also adopt the protections for rural telephone companies proposed by the Office of Advocacy, the "Western Alliance" and others.

Personal communications services (PCS) and other emerging technologies that will be subject to competitive bidding can bring new services to our rural customers that otherwise may not be available for years. These services could include the extension of advanced medical consultation by video and data links, to areas where medical specialists are scarce; and educational training over truly interactive, mobile systems. Other types of expertise and sources of information can be extended to rural America over a cost-effective, digital voice, video and data network. Chillicothe is concerned that the spectrum auction rules adopted in PP Docket No. 93-253 may not take into account that in rural areas, the telephone company is likely to be the entity best suited and committed to providing

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such services in the near future.

### **Definition of "Rural Telephone Company"**

The Commission has requested comments on the definition of the term "rural telephone company", to determine which entities are entitled to the special treatment Congress has mandated for rural telephone companies and other groups pursuant to the Omnibus Budget Reconciliation Act of 1993. The Commission proposes the definition contained in the cable/telephone cross-ownership exemption standard in Rule Section 63.58 (i.e., a certificated service area population of less than 2500 inhabitants, and no service to a portion of an urbanized area). However, this definition is not realistic. Even the Office of Advocacy (a governmental agency) states that the Section 63.58 standard "has little to do with the provision of infrastructure to residents in non-metropolitan areas." Office of Advocacy comments at p. 13. Chillicothe agrees that a more realistic definition should be used.

US Intelco proposes to define "rural telephone company" as an exchange carrier serving 50,000 or fewer access lines, or serving rural populations of less than 10,000. See comments of US Intelco at pp. 14-15. The Office of Advocacy proposes to define a rural telephone company as a carrier serving less than 50,000 access lines, and proposes an alternative definition of less than 20,000 inhabitants served (with no portion of a metropolitan area). And while the Organization for the Protection and Advancement of Small Telephone Companies (OPASTCO) advocates a definition of 10,000 access lines or up to 10,000 study area population, OPASTCO recognizes that the Commission has found companies with fewer than 50,000 access lines to be "small telephone companies" under Rule Section 61.39. Thus, OPASTCO indicates that it will support a definition which included this benchmark. See comments of OPASTCO at p. 6, n. 6.

Chillicothe agrees that a definition based on 50,000 access lines more accurately describes rural telephone companies, for purposes of determining eligibility for PCS/emerging technologies licensing. This benchmark is reasonably related to the cost of providing infrastructure to rural residents.

Chillicothe therefore urges the Commission to adopt a definition which uses the benchmarks recommended by the Office of Advocacy and US Intelco, based on 50,000 access lines. Such definition would allow Chillicothe (which has approximately 28,000 access lines) and other telephone companies serving rural areas to ensure that the citizens within their certificated service areas promptly receives the benefits of new technologies, as mandated by Congress.

## **Definition of "Small Business"**

The Commission proposes to define the term "small business" for purposes of determining eligibility for Congressionally mandated licensing advantages, by using a hybrid of the existing Small Business Administration definition for small telecommunications firms. This definition includes a business that does not have a net worth in excess of \$6 million or a net income after Federal taxes of \$2 million; or a business that has fewer than 1500 employees. The Commission notes, however, that this standard may not be appropriate for PCS, which will be capital-intensive. See Notice of Proposed Rulemaking, pp. 24-25.

Chillicothe agrees with the Office of Advocacy comments at pp. 8-9 that neither of the above tests is suitable, since the net worth test "will not include businesses of sufficient size to survive, much less succeed, in the competitive wireless communication marketplace," and the 1500 employee size standard "may permit some firms to obtain special treatment in the competitive bidding process that do not need any help in obtaining spectrum or constructing a PCS network." Chillicothe urges the Commission to use the "annual revenues of less than \$40 million" definition proposed by the Office of Advocacy.

Chillicothe also urges the Commission to adopt the protective measures for Congressionally designated groups recommended by the Office of Advocacy, the Western Alliance, and the National Telephone Cooperative Association. These protections allow the designated groups to take advantage of installment payments, royalty payments, tax certificates, bid multipliers, distress sale procedures, and simpler financial certification requirements. See e.g., Western Alliance comments at pp. 16-18; Office of Advocacy comments at pages 18-30.

Chillicothe also encourages the Commission to adopt the proposal of the Western Alliance (at pages 14-16) to give larger PCS applicants financial incentives to include rural telephone companies in their consortium, so that these rural telephone companies can build out PCS to their telephone exchange areas within the PCS service area.

## **Nationwide Licensing**

Chillicothe urges the FCC to adopt the proposals of MCI Telecommunications Corporation (MCI) to facilitate the equitable licensing of the 30 MHz MTA spectrum blocks, and to encourage new entrants in the provision of regional and/or nationwide mobile services. In particular, MCI proposes that:

1. One of the 30 MHz MTA blocks should be set aside for bidding by entities that are not "dominant cellular providers" (i.e.,

holding a greater than 20 percent interest in cellular systems which together cover more than ten percent of the nation's POPs);

2. The Commission should allow nationwide combinational bids on three 30 MHz blocks of spectrum, including Blocks A and B, and an aggregation of Blocks E, F and G.

3. Sealed second-highest bid auctions should be employed for nationwide combinational bidding.

4. The bidding for 30 MHz blocks should be staggered to prevent any undue advantage to individual MTA bidders because of the information they will gain in the oral bidding process. Sealed combinational bids should not be opened until the oral auctions for both Block A and Block B MTA licenses have been conducted.

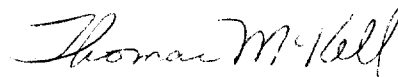
5. It should be permissible to withdraw sealed combinational bids at any time before they have been opened.

6. No deposit beyond the upfront payment should be required. (In this regard, Chillicothe supports the comment of the Western Alliance that no upfront payment should be required for rural telephone companies.)

7. Post application, pre-auction settlements should be allowed up to 48 hours before the auction.

These procedures suggested by MCI will help to ensure a fair bidding process for entities wishing to enter the mobile telecommunications market, who may otherwise be thwarted by the efforts of the dominant cellular carriers. Despite the best efforts of the Commission to enhance participation by the Congressionally designated groups, many may find that joining a nationwide consortium is the most feasible avenue for bringing PCS to their customers. Therefore, it is important that the combinational bidding rules preserve this opportunity to participate in PCS without interference from entities that may have an anti-competitive incentive to impede the provision of PCS by non-cellular carriers.

Sincerely,



Thomas McKell  
President

cc: The Honorable David Hobson  
The Honorable Michael Oxley  
The Honorable Ted Strickland